IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2059 OF 1997

1. Raja Mahendragir, Indian Inhabitant, residing at Gyan Bagh Palace, Hyderabad.

2. Rajkumari Indira Devi, Indian Inhabitant, residing at Gyan Bagh Palace, Hyderabad.

3. Rajkumari Indira Devi, now known as Mrs. Renuka Batlivala, Indian Inhabitant, residing at 19th Floor, Cuffe Castle, Cuffe Parade, Mumbai-400 005.

4. Humayun Dhanrajgir, Indian Inhabitant, residing at 15, Kamal Mahal, M.L. Dahanukar Marg, Mumbai 400 026.

5. Dr. (Mrs.) Durreshwar Pillai, now Haycraft, c/o Humayun Dhanrajgir, 15, Kamal Mahal, M.L. Dahanukar Marg, Mumbai-400 026.

6. Tejvangir, Indian Inhabitant, residing at c/o Global Financial Services, Sterling Villa, Vikram Puri, Secunderabad 500 003.

7. Adityavangir, c/o Tejvangir, Global Financial Services, Sterling Villa, Vikram Puri, Secunderabad 500 003. .... Petitioners

\- Versus -

1. Union of India, through the Secretary, Ministry of Defence, having its office at South Block, New Delhi 110 001.

2. The Commissioner, Konkan Division having his

office at Konkan Bhavan, C.B.D. Belapur, District Thane.

3. R.G. Jadhav, Special Land Acquisition Officer MHADA, having his office at Old Customs House, Fort, Mumbai-400 023. .... Respondents

Sarvasri S.K. Cooper with R.I. Chagla i/b M/s. Thakordas & Madgaonkar for the Petitioners.

Sarvasri Y.S. Bhate with Y.R. Mishra for the Respondent No.1-Union.

Shri A.A. Kumbhakoni, Associate Advocate General, with Ms Mugdha Jadhav, Asst. Govt. Pleader for the Respondent Nos.2 and 3.

CORAM: R.M.S. KHANDEPARKAR & V.M. KANADE, JJ.

DATED: SEPTEMBER 19, 2005

ORAL JUDGMENT (Per R.M.S.Khandeparkar, J.):

1. The petitioners challenge the Notification dated 27-10-1997 issued under Section 4 of the Land Acquisition Act, 1894, hereinafter referred to as "the said Act" on various counts.

2. Few facts relevant for decision in the matter are that the Notification under Section 4 of the said Act came to be issued on 27-10-1997. However, by letter dated 19-6-1998 the respondent-Government of India communicated its decision to the Chief of Naval Staff its sanction for the withdrawal of the land which was the subject-matter of acquisition in terms of the

Notification dated 27-10-1997. However, thereafter under the letter dated 10-7-1998 the Government sought to withdraw the sanction granted by the Government for the withdrawal of the acquisition proceedings in relation to the land in question and also for cancellation of the letter dated 19-6-1998. The same was communicated to the Chief of the Naval Staff under the said letter dated 10-7-1998 and also to the petitioners by copy of the letter dated 22-6-1998 which was addressed to the Central Government Advocate by the Defense Estate Officer. Thereafter by the letter dated 5-9-1998 by the Government to the Chief of the Naval Staff it was informed that in partial modification of their earlier decision dated 13-10-1997 in relation to acquisition of the land, certain specified properties were decided to be acquired.

3. In the back ground of the above facts, the learned Advocate for the petitioners submitted that apart from the decision to release and withdraw from the acquisition proceedings in terms of the provisions of Section 48 of the said Act, communicated under the letter dated 19-6-1998, and due to the lapse of period of more than two years, the Notification issued under Section 4 on 27-10-1997 no more legally survives and therefore needs to be quashed. The learned Advocate for the respondent-Government of India submits that though the Government did not pursue the matter in terms of the

Notification dated 27-10-1997, it has now been decided to acquire specified properties and that has been clarified under the letter dated 5-9-1998 and therefore the Notification under Section 4 of the said Act cannot be held to have been lapsed.

4. Upon hearing the learned Advocates for the parties and on perusal of the records, it is abundantly clear that after issuance of the Notification under Section 4 on 27-10-1997, no further steps were taken in the acquisition proceedings nor the declaration under Section 6 was issued within a period of one year from the date of publication of the Notification under Section 4. It is, however, sought to be contended that there was a stay granted by this Court on 24-11-1998 to the acquisition proceedings. Undisputedly, the stay was granted after the expiry of the period of one year from the date of publication of the Notification under Section 4. No declaration in terms of Section 6 was issued within the period of one year from the date of publication of the Notification under Section 4. It is a statutory obligation of the concerned authorities to issue such a declaration in case the Government decides to pursue with the acquisition proceedings otherwise the proceedings lapse. In case the Government still desires to pursue with the matter, it will be necessary for the Government to issue a fresh Notification under Section 4. Grant of stay after the period of one year from the

date of publication of Notification under Section 4 would not enure to the benefit of the respondents to contend revival of the proceedings which have already lapsed.

5. It is also to be noted that the intention of the Government to release the land which was the subject-matter of the acquisition under the Notification issued under Section 4 on 27-10-1997 was abundantly clear from the letter dated 19-6-1998. Being so, apart from the fact that no declaration was issued within a period of one year from the date of publication of the Notification under Section 4, the Government's intention not to pursue the acquisition proceedings in relation to the land which was the subject-matter of the Notification under Section 4, issued on 27-10-1997 was also disclosed from the letter dated 5-9-1998 whereby it was made abundantly clear that in modification of the earlier decision the Government now intend to acquire specified premises as described in the said letter. Considering the remarkable difference between the description of the premises to be acquired as disclosed in the letter dated 5-9-1998 and the description of the land which was the subject-matter of the Notification dated 27-10-1997, it is needless to say that the Notification dated 27-10-1997 does not subsist.

6. In the circumstances stated above, therefore, the

petition needs to be allowed and the Notification dated 27-10-1997 issued under Section 4 be quashed with the rider that this will not preclude the respondents from initiating fresh acquisition proceedings in relation to the premises which are intended to be acquired in terms of the letter dated 5-9-1998, or otherwise, subject to necessary legal proceedings in that regard in terms of the provisions of law. It is made clear that this Court has not dealt with any other point sought to be raised in the matter and all those issues are kept open. Needless to say that in view of the quashing of the Notification dated 27-10-1997, the further steps taken by issuing the Notice for inquiry under Section 5A in that regard by the letter dated 10-11-1997 also stand quashed. The rule is made absolute in above terms with no order as to costs.

(V.M. Kanade, J.) **(R.M.S. Khandeparkar, J.)**